


Item No. 10.1.6.

TOWN OF LAUDERDALE-BY-THE-SEA

AGENDA ITEM REQUEST FORM

Development Services
Department Submitting Request


Dept Head's Signature AD

<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>	<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>	<u>Commission Meeting Dates</u>	<u>Last date to turn in to Town Clerk's Office</u>
<input type="checkbox"/> Nov 10, 2009	Oct. 30 (5:00 p.m.)	<input type="checkbox"/> Jan 26, 2010	Jan 15 (5:00 p.m.)	<input type="checkbox"/> March 23, 2010	Mar 12 (5:00 p.m.)
<input type="checkbox"/> Dec 1, 2009	Nov 20 (5:00 p.m.)	<input type="checkbox"/> Feb 9, 2010	Jan 29 (5:00 p.m.)	<input type="checkbox"/> April 13, 2010	April 2 (5:00p.m.)
<input type="checkbox"/> Dec 8, 2009	Nov 25 (5:00 p.m.)	<input type="checkbox"/> Feb 23, 2010	Feb 12 (5:00 p.m.)	<input type="checkbox"/> April 27, 2010	April 16 (5:00p.m.)
<input checked="" type="checkbox"/> Jan 12, 2010	Dec 31 (5:00 p.m.)	<input type="checkbox"/> Mar 9, 2010	Feb 26 (5:00p.m.)	<input type="checkbox"/> May 11, 2010	April 30 (5:00p.m.)

**NATURE OF
AGENDA ITEM**

- | | | |
|---|---|--|
| <input type="checkbox"/> Presentation | <input type="checkbox"/> Resolution | <input type="checkbox"/> New Business |
| <input type="checkbox"/> Report | <input checked="" type="checkbox"/> Ordinance | <input type="checkbox"/> Manager's Report |
| <input type="checkbox"/> Consent Agenda | <input type="checkbox"/> Public Hearing | <input type="checkbox"/> Attorney's Report |
| <input type="checkbox"/> Bids | <input type="checkbox"/> Old Business | <input type="checkbox"/> Other |

EXPLANATION: First Reading. Commission to consider approval of Ordinance 2009-35
Board of Adjustments recommendation is within the draft minutes attached.

Town Attorney review required

☒ Yes ☐ No

Town Manager's Initials: Q2

Mayor Minnet said this was a problem since Choice Environmental took over.

Commissioner Clotey said there seemed to be a dual rate system with some people paying a commercial rate.

Commissioner Dodd said one person was paying \$75 a month and received recycling and currently paid the same price without recycling. Manager Colon said some of the properties had mixed use and some did not pay. She said staff would contact Choice and the residents and get to the bottom of it. Mayor Minnet asked that if it was a multi-use dwelling and the upstairs dwelling said they did not want it, how would that be handled. Manager Colon said the ordinance required a solid waste container.

Mayor Minnet stated that channel 78 advises when the garbage and recycling would be picked up.

Mr. Brenner said he had two toters and only utilized one and did not get his recycling.



J. Discussion and/or action to review Chapter 30:

1. The ordinance on corner lots (Mayor Minnet)
2. Amend Section 3.13 #29, pertaining to the installation of pools on corner lots (Commissioner Silverstone)

Commissioner Silverstone stated that the older homes originally had the right to put a pool on the front setback of their lot and since that time it had been denied. He believed the Commission should take a look at the ordinance and make it more laxed.

Attorney Trevarthen referred to Code Section 30-313 subsection 29 and suggested: 1) delete the 1st sentence to allow pools in the front yard; 2) change the requirement in (a) water bearing wall surfaces to have a minimum 5 foot set back to the front as well as the side and the rear yard; 3) add (c) to allow the fencing to enclose the pool in the front yard setback as long as it did not obstruct the site distance triangle; and 4) change "side and rear only" to include "front yard" as well.

Commissioner Clotey had no problem with pools allowed in the front yard with a wall to shield it.

Ms. D'Uva said she was told by the Town that the fine would be held until decisions were made on the pool and the shed.

Commissioner Silverstone made a motion to approve to amend Section 30-313 subsection 29, to remove the prohibition on swimming pools, hot tubs or spas in the front setbacks and making related changes to the remainder of the section regarding

fencing and enclosing would not affect the site distance triangle. Commissioner Dodd seconded the motion. The motion carried 5 - 0.

k. Discussion and/or action to support staff's request and reset the bond to its original value - Minto (Commissioner Dodd)

Commissioner Dodd was concerned that Minto would not put the sidewalk in and the Town would be stuck with the current sidewalk until the next phase. He asked whether the bond could be raised since the Commission already lowered it. Mayor Minnet advised that it had already been recorded and she signed off on it. Attorney Trevarthen believed it was too late.

l. Discussion on Bid opening procedures - change purchasing manual section 4 (a) to read - All timely - received bids shall be publically opened and read aloud in the presence of witnesses at the place and time designated in the RFP. Town staff shall warn all present the bids have not been checked for responsiveness or mathematics (Commissioner Dodd)

Commissioner Dodd felt the purpose of opening the bid was to show the government was operating under the Sunshine Law.

Commissioner Dodd made a motion to change purchasing manual page 4 to read "all timely received bids shall publicly opened, read allowed to include the bidder, the town, the bid number and the bid value; contractors present at the bid opening would have the right to inspect the lowest bid, staff would announce that the bids would be evaluated for mathematical error and responsiveness.

Commissioner Dodd said he was present at the bid opening where 14 angry contractors were angry and BSO had to be called in to maintain the peace. 0 seconded the motion.

Manager Colon stated that the instigation was caused by some of the people that attend the bid openings. She said there was a legal opinion that stated that what the Town Manager and staff did was not illegal. Manager Colon said she also personally attended the bid opening because she was told by staff that it was getting unbearable with these people attending the bid openings. She added that one resident, who claimed to be a "resident" at the bid opening, when he was a Commissioner. Manager Colon had no objection to the Commission hiring a procurement officer to take over the bid process. She said the purchasing policy has been in effect for years and there never was a problem. Manager Colon said she sat across from the "resident" Stuart Dodd and Barbara Cole and a another gentleman who accused back door dealings. She added that it was the people in the audience instigating the upset. Manager Colon referred to New Business item 16e, the sewer bid response. She said the Town Clerk would have had to sit and read all those numbers on multiple pages and explain the amount for each item, such as linear feet, sewer line pipe and she would have to do that for each bidder. Manager Colon stated that what staff did was legal, the Town Clerk opened the bids publicly and read out loud the name of the bidders. Manager Colon said there was never a problem until recently and believed it was due to

Discussion followed regarding purchasing a new truck verses repair of the transmission on a 10 year old truck.

Commissioner Silverstone made a motion to approve. Mayor Minnet voted no. Commissioner Dodd seconded the motion. The motion carried 4 - 1. Mayor Minnet voted no.

- d. Commission approval for purchase an F250 with a Utility Bed not to exceed \$23,000 (Assistant Town Manager Olinzock)

Commissioner Dodd made a motion to approve. Mayor Minnet voted no. Vice Mayor McIntee seconded the motion. The motion carried 4 - 1. Mayor Minnet voted no.

5. RESOLUTION - "Public Comments"

6. QUASI JUDICIAL PUBLIC HEARINGS

Attorney Trevarthen swore in those wishing to speak.

- * a. Commission approval of re-designation of lot line front per request submitted by Karen [REDACTED] property owner of 1658 W. Terra Mar Drive, to change the designated front yard per Town Code Chapter 30 from Seward Drive to West Terra Mar Drive (Assistant Town Manager Olinzock)

Karen [REDACTED] stated that the survey showed W. Terra Mar Drive as her front yard but according to records Seaward Drive was considered her front yard. She said her mail came to W. Terra Mar Drive as did her taxes. Ms. [REDACTED] requested the Commission designate W. Terra Mar Drive as her front yard.

Assistant Town Manager Olinzock stated that in order grant the request the variance would have to be approve.d for the encroachments that would exist on the front yard. He explained that the new front yard would have part of the building within the 25 foot setback.

Attorney Trevarthen explained the criteria for a variance as per Town Code Section 30-8 (e) (3).

Commissioner Clotey made a motion to approve. address change. Commissioner Silverstone seconded the motion. The motion carried 5 - 0.

- * b. Town Commission to approve. variance request submitted by Karen [REDACTED], property owner of 1658 W. Terra Mar Dr. (Assistant Town Manager Olinzock)

Attorney Trevarthen swore in those wishing to speak.

Petitioner requested the Commission go along with the recommendation of the Board of Adjustment and grant the variance.

Assistant Town Manager Olinzock read the results of the July 14, 2009 Board of Adjustment which was to grant the variance under the condition that the applicant go before the Town Commission to gain approval to allow the fence to remain in its present location and to allow the shed to encroach into the setback and allow a swimming pool into the 25 foot setback.

Mayor Minnet asked for the recommendation of the Town Engineer. Assistant Town Manager Olinzock stated that Chen & Associates recommended the variance not be granted.

Board of Adjustment Chairman Mr. Crossman stated that every pool had to have a fence and the fence had to be 10 feet from the public right-of-way line. He added that without the variance there would be 10 feet between the fence and the house to put the pool and the decking. Mr. Crossman said the variance was the only way to get the fence, the pool and decking in the space. He said the Board of Adjustment recommended leaving the shed where it was and grant the variance.

Mr. Couriel said there was no way to build the pool on the property or many properties in Lauderdale-By-The-Sea the way the Code currently read. He said the setback requirements were very strict and made it difficult for someone to put in a pool in their side or back yard. Mr. Couriel stated that the shed was installed without a permit but the Board of Adjustment decided to overlook it as to not cause any more hardship. He explained that the recommendation of Chen & Associates did not currently apply as their recommendation applied when the front yard was on Seaward Drive and should not be considered at this point.

Vice Mayor McIntee was concerned that if the Commission approved a pool with no restrictions and a 10 foot encroachment in a side yard then all future requests for a side yard pool would have to be granted. Vice Mayor McIntee believed that Chen & Associates would have the same recommendation, even though the front yard was currently on W. Terra Mar Drive, simply because there was no room for a pool in the side yard.

Mr. Crossman recommended placing the fence on the property line which would give the required room.

Commissioner Silverstone did not believe it met code requirements and thought the Commission should look at changing the Code.

Commissioner Clotey asked whether the pool could be closer to the house. Mr. Couriel said the original request for a larger pool and the size was reduced. He said that was the only space and size for the pool.

Commissioner Dodd believed every case should be considered on its merit. He agreed with Commissioner Silverstone to look at the current code and make necessary adjustments.

Ms. ~~DUVA~~ said she had moved the pool closer to the house. She asked the Commission to approve her request for a variance.

There were no further comments.

Commissioner Dodd made a motion to approve the variance. Commissioner Clotley seconded the motion. The motion failed 3 - 2. Mayor Minnet voted no. Vice Mayor McIntee voted no. Commissioner Silverstone voted no.

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- c. Commission approval of a zoning variance regarding the dumpster enclosure for 101 Ocean Restaurant located at 101 Commercial Boulevard. The applicant is requesting exception to the Town's Zoning Code, Chapter 30 to allow the existing chain link enclosure to remain - BOA approval with condition (Assistant Town Manager Olinzock)

Attorney Trevarthen swore in those wishing to speak.

Mr. Brennan explained that they could not put wood fencing as required by Code on a concrete base and in its place placed a chain link fence. He said he was told to either tear out the fence or apply for a variance. Assistant Town Manager Olinzock stated that the Board of Adjustment recommended the approval. Manager Colon said there were other businesses using chain link fencing and showed them in her previous presentation on trash. After some discussion it was determined to be the mistake of the Town.

Commissioner Dodd believed either change the Code or change the staff. He suggested Mr. Brennan be allowed to keep his fence but when it came time to replace it he would have to comply with current code.

Vice Mayor McIntee supported the fence for 101 Ocean only. Vice Mayor McIntee asked if the Commission agreed would Mr. Brennan replace the fence with a wooden fence when that time came. Mr. Brennan agreed.

Attorney Trevarthen asked for final statements. There were none.

Vice Mayor McIntee made a motion to approve the variance with the condition that when it came time to replace the fence it would be replaced with a conforming fence. Commissioner Dodd seconded the motion. The motion carried 4 - 1. Mayor Minnet voted no.

7. OLD BUSINESS

- a. Commission approval of reduction of right-of-way permit performance bond for

Item No. 146**TOWN OF LAUDERDALE-BY-THE-SEA****AGENDA ITEM REQUEST FORM****Development Services**

Department Submitting Request



Dept Head's Signature

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<input type="checkbox"/> April 28, 2009	April 17 (5:00 p.m.)	<input type="checkbox"/> June 23, 2009	June 12 (5:00 p.m.)	<input type="checkbox"/> Sept 8, 2009	Aug 28 (5:00 p.m.)
<input type="checkbox"/> May 12, 2009	May 1 (5:00 p.m.)	<input type="checkbox"/> July 14, 2009	July 2 (5:00 p.m.)	<input type="checkbox"/> Sept 22, 2009	Sept 11 (5:00 p.m.)
<input type="checkbox"/> May 26, 2009	May 15 (5:00 p.m.)	<input checked="" type="checkbox"/> July 28, 2009	July 17 (5:00 p.m.)	<input type="checkbox"/> Oct 13, 2009	Oct 2 (5:00 p.m.)
<input type="checkbox"/> June 9, 2009	May 29 (5:00 p.m.)	<input type="checkbox"/> August 2009	Commission Recess	<input type="checkbox"/> Oct 27, 2009	Oct 16 (5:00 p.m.)

NATURE OF AGENDA ITEM

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|---|--|--|
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| <input type="checkbox"/> Bids | <input type="checkbox"/> Old Business | <input type="checkbox"/> Other |

EXPLANATION: Town Commission to approve variance request submitted by Karen D'Uva, property owner of 1658 W. Terra Mar Dr.

BOARD/COMMITTEE RECOMMENDATION: See attached Board of Adjustment draft minutes.

Town Attorney review required

☐ Yes ☒ NoTown Manager's Initials: Qs

TOWN OF LAUDERDALE-BY-THE-SEA

BOARD OF ADJUSTMENT MINUTES

Town Commission Meeting Room

Wednesday, July 15, 2009 at 11:00 A.M.

I. CALL TO ORDER

Chairman Thomas Carr called the meeting to order at 11:00 a.m. Members present were Chairman Thomas Carr, Vice Chair Joseph Couriel, and George Crossman. Also present were Acting Town Attorney Nancy Stuparich, Code Compliance Officer Kam Parker and Board Secretary Colleen Tyrrell.

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

III. APPROVAL OF MINUTES

Regular Meeting – May 20, 2009

All voted in favor to approve the May 20, 2009 minutes as presented.

Acting Town Attorney Nancy Stuparich swore in all those that would be testifying at the hearing.

IV. OLD BUSINESS (Tabled from May 20, 2009)

- A. Project: To allow the existing shed, installed without permit, to be located within the front yard setback;
To allow a proposed swimming pool to be constructed within the front yard setback and within 10' of a public right of way;
To allow the required swimming pool enclosure (fence) to be located within the front yard setback and within 10' of a public right of way

Applicant:

Karen A. ~~DUVA~~

Location:

1658 West Terra Mar Drive

Request:

Description of Variance request: The property owner is seeking three (3) Variances:

1. From the provision of the Section 30-211(c) (1) and Section 30-313(31) to allow the existing shed, which was installed without permit, to be located within the required front yard setback and within ten (10) feet of a public right-of-way. The proposed location is five (5) feet two and three eight (2 3/8) inches from the front property line, rather than the twenty-five (25) feet as required by Code.
2. From the provision of Section 30-313(29) to allow a swimming pool to be constructed within the required front yard setback and within ten (10) feet of a public right-of-way. The proposed pool location to be constructed is three (3) feet one and a half (1 1/2) inches from the front property line rather than the twenty-five (25) feet as required.
3. From the provision of Section 30-313 (4) (e), to allow the required swimming pool enclosure (fence) to be located within the required front yard setback and within ten (10) feet of a public right-of-way. The proposed location for the fence is directly on the front property line rather than the twenty-five (25) feet required.

Karen D'Uva and her attorney, Paul G. Finizio, were present at the hearing to present the history of Mrs. D'Uva's variance request. This matter was brought before the Board of Adjustment on May 20, 2009 at which time the board recommended that this item be tabled to the July 15, 2009 hearing to allow the applicant time to appear before the Town Commission for approval to change the designated front yard from Seaward Drive to West Terra Mar Drive and to re-submit plans reducing the size of the pool and/or shed. Mrs. D'Uva said that she was advised that she would have to apply for another variance to have the address changed. Mrs. D'Uva stated that two years ago she and her husband and their had spoken to Tatiana Solovieva and was told that Tatiana would concur with the address change to West Terra Mar Drive. So they proceeded on those comments. Mrs. D'Uva said that you can only enter her house through the front door that is on Seagrape Drive and verified that her mail is delivered to West Terra Mar Drive which is her front yard. Mrs. D'Uva said that she was confused and was not sure if she should proceed with changing the address designation, however, if it would help this cause she would rather leave everything as is and try to get the variances with the front yard the way it is.

Chairman Carr referred to the diagram presented to the board in the packet and noted that the West Terr Mar side was the longer of the property lines which was 71.19' which he thought was part of the criteria in determining the front and side yards. Mr. Carr said that Mrs. D'Uva was also before the Board of Adjustment back in 2001 and they accepted the address change on West Terra Mar Drive. Mr. Carr said that in his opinion he would go along with that.

Mrs. D'Uva said that she did not want to go again go through who said what, but the two people that were working in the Planning and Zoning Department were no longer working for the Town. Mrs. D'Uva said that she researched for hours to find the variance that she obtained in 2001 to put in her rear patio. Mrs. D'Uva referred to Mr. Noah's letter that stated that the swimming pool would devalue the property and said that statement was an ignorant statement and that everyone knows that if you put in a pool, the real estate for the house would go up. Mrs. D'Uva felt that she was being discriminated against because she made a complaint to the building department about Mr. Noah and that is when all of these issues came up about her shed.

Mrs. D'Uva said that she has returned with new plans and said that she has spent almost \$4,000 in trying to get this resolved. Mrs. D'Uva said that she could not afford to spend money on any more variances or surveys, architects or attorneys and all she wanted was to be allowed a few feet. Mrs. D'Uva said that this was a sentimental matter for her since you husband recently passed away and the shed contains all of his tools and personal things.

Attorney Finizio said that the conditions that exist there especially in this situation since shed is hidden behind the hedges and does not create any obstruction and there was no safety violation and that esthetically the shed does not detract from it and ask that the board approve the variance.

Chairman Carr commented that the swimming pool would be now 5 feet into the property line which was just to the edge of the patio and assumed Mrs. D'Uva would be staying with the 3 foot wide perimeter around the pool. Chairman Carr said that Mrs. D'Uva was also proposing to move the shed about 4 feet closer to the home.

Attorney Finizio said that they would do whatever the board wanted and it would be a difficult thing to move the shed, however, they do not feel this should be needed and would like to keep the shed in its place.

Chairman Carr said that he went by the property a few days ago and that he could not see the shed at all behind the hedges. Chairman Carr verified with Mrs. D'Uva that the shed was hurricane secured. Chairman Carr stated that the Town has certain standards and that is why Mrs. D'Uva was before the Board of Adjustment, however, the board would try and take everything into consideration. Chairman Carr closed his comments and asked those present to come forward for public comments.

Kay Bayman of 1603 W. Terra Mar Drive stated that he lived across from Karen D'Uva for a number of years. He knew intimately both Karen and her husband, Robert. Mr. Bayman said that this shed was a pet project of Robert's

and said that they were very respectful and considerate of others and that whatever they did, they took seriously. Mr. Bayman took special interest in the swimming pool because it was his opinion that it would enhance the value of the property and the neighborhood because there were very few pools on the island. Mr. Bayman said that he find sthe project worthwhile and wanted to touch on the moral aspect of the family because it was the dream of Robert's to put in a swimming pool and asked that the project be revived in memory of Robert.

John Seville a resident of 232 Oleander Way stated that he has been a neighbor of the D'Uva's for six years and said that he was in full support of the variance request and considered it an asset to the area and to her property values.

Chuck Gress lives on Terra Mar Way and is also a neighbor of Karen's. Mr. Gress said that the shed was completely hidden by the hedges and did not impose any devaluation of the property. Mr. Grerss said that Karen was a great neighbor and asked the board for a positive decision on her request for a variance.

Mr. Couriel asked Officer Parker why Seaward Drive was considered Mrs. D'Uva's front yard when her address is located on West Terra Mar Drive.

Officer Parker indicated that per Town Code on a corner lot the shorter of the two fronts would be designated as the front yard.

Mr. Couriel verified with Officer Parker that if the designated front address was changed, a new variance would be required and for comments from Acting Town Attorney Stuparich.

Attorney Stuparich agrees with Officer Parker's statements regarding Town Code designation of front yards and confirmed that a variance would be required.

Mr. Couriel stated that Mrs. D'Uva must seek a new variance to change the front yard and commented that he would not have any problem with approving the change of address.

Attorney Finizio asked that the change of address be considered at this hearing.

Officer Parker advised that the board would be unable to consider the change of designated front because of the Public Notice Requirements.

Mr. Couriel referred to the table that was done by Officer Parker that was included in the backup material from the previous May 20, 2009 Board of Adjustment hearing and asked how the dimensions would vary if the designated front yard was changed to West Terra Mar Drive.

Officer Parker responded and reviewed each item separately. Regarding the shed, Officer Parker advised that the new encroachment would be 9' 9 5/8 " which would be the encroachment into the required 15 foot setback from the public right of way. Regarding the swimming pool, the new encroachment would be 6' 6" which would encroach into the required 10 foot setback from the public right of way. Regarding the fence, the new encroachment would be 10 feet which would encroach into the required 10 foot setback from the public right of way. Either way, the shed would encroach into the public right of way.

Mr. Couriel stated that if the designated front was changed there would be a reduction in the required variances. Mr. Couriel felt that, the impact of the shed and the swimming pool would be minimized with the change of address.

After further discussion, Attorney Finizio said that this matter was form over function and asked that the Board of Adjustment approve the requested variance as submitted now and said that a new variance was not needed.

Chairman Carr reviewed and discussed the submitted pervious/impervious calculations and advised that it appears that Mrs. [REDACTED] has at least 50% pervious property which would not be an issue. Chairman Carr said that in his view, moving the shed would encroach no matter where it was moved and it was completely hidden from view by the hedges and that was not an issue.

Mr. Crossman expressed his concerns with the location of the swimming pool but was not concerned with the location of the shed. Mr. Crossman said that no matter where the shed was moved it would still encroach into the public right of way.

Mr. Couriel felt that in his opinion the shed would be a problem if it was moved closer to the house and he was more inclined to leave the shed in line with the smaller pool. He agreed that if the address was changed to West Terra Mar Drive, and the shed remains in its current location, and the pool was changed slightly, no matter what, Mrs. [REDACTED] would have to spend money either to move the shed or apply for an additional variance.

Attorney Finizio again asked that the variance be approved as presented at the hearing.

Town Attorney Stuparich commented that this is the way the code is written and that staff has to apply the code in accordance with how it is written. Attorney Stuparich said that the change of address was not included in the original Public Notice and would therefore have to go before the Town Commission for approval.

Officer Parker commented that the residence is now a legal conforming building and if the address change was approved by the Town Commission, the residence would become non-conforming.

During the continued discussion regarding the setbacks of the pool, Officer Parker clarified for the board that there was no decking indicated on the revised plans.

Mr. Couriel made a motion, the motion was discussed in great detail and was later withdrawn. Mr. Couriel restated the motion to grant the variance with the condition that the Applicant go before the Town Commission to gain approval to change the designated front in order to allow the shed to remain in its current location and to allow the shed to encroach 9 feet 9 5/8 inches into the required 15 foot setback from the public right of way; and to allow the revised smaller swimming pool to encroach 4 feet 9 5/8 inches into the required 10 foot setback from the public right of way; and to allow the fence to encroach all 10 feet of the required 10 foot setback from the public right of way. The motion was seconded by Mr. Crossman. In a roll-call vote, all voted in favor. The motion carried 3-0.

V. NEW BUSINESS

A..	Applicant:	Ezer Investments, LLC c/o Joe Brennan
	Location:	101 E. Commercial Boulevard
	Request:	Description of Variance request: <u>The Applicant is requesting an exception to the Town's Zoning Code, Chapter 30-315 (4) (I), to maintain a chain link fence to enclose a dumpster in the B-1 Zoning District.</u>

Joe Brennan, Business Manager and Secretary/Treasurer of 101 Ocean A/K/A Beach Restaurant Inc. was present at the hearing. Mr. Brennan explained that a permit was issued and a final inspection was approved by the Zoning Department. He was later advised that the permit was issued in error and that the Town Code prohibits chain link fences in the B1 District. Mr. Brennan presented photos of the purpose-built enclosure and photos of wooden dumpster enclosures for comparison. Mr. Brennan said that it would be a hardship to remove the chain link fence enclosure and requested that the Board grant an exception to the Town's Zoning Code and approve the variance request.

After further discussion Mr. Couriel said that the dumpster enclosure faced the Municipal Parking Lot and that he noticed that the dumpster enclosure was kept open and it looked unsightly.

TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING AND ZONING REGULAR MEETING AGENDA

Town Commission Meeting Room

Wednesday, December 16, 2009

6:30 P.M.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE TO THE FLAG

III. APPROVAL OF MINUTES

Regular Meeting of the Planning and Zoning Board – October 21, 2009

IV. NEW BUSINESS

Project:

Applicant:

Location:

Request:

(A) The Planning and Zoning Board to provide recommendations to the Town Commission to the proposed changes to the land development regulations of Chapter 30 of the Code of Ordinances ("Code"):

- Amendment to Section 30-313 of the Code to remove the prohibition against constructing and allowing a swimming pool, hot tub, or spa to be located within the front yard setback. (Reference Proposed Ordinance 2009-35)
- Amendment to Section 30-261 (b) (1) of the Code to amend and expand the list of permitted uses within the B-1-A commercial zoning district by allowing community theatres and cultural centers. (Reference Proposed Ordinance 2009-10)
- Amendment to Section 30-271(a) of the Code to amend and expand the list of permitted uses within the B-1 commercial zoning district by allowing community theatres and cultural centers. . (Reference Proposed Ordinance 2009-10)

V. OLD BUSINESS

NONE

VI. UPDATES/BOARD MEMBER COMMENTS

VII. ADJOURNMENT

THE TOWN OF LAUDERDALE-BY-THE-SEA WILL FURNISH APPROPRIATE AIDS AND SERVICES NECESSARY TO AFFORD AN INDIVIDUAL AN EQUAL OPPORTUNITY TO PARTICIPATE IN MEETINGS OF THE PLANNING AND ZONING BOARD. IN DETERMINING WHAT TYPE OF AUXILIARY AID AND SERVICE IS NECESSARY, THE TOWN OF LAUDERDALE-BY-THE-SEA, WILL GIVE PRIMARY CONSIDERATION TO THE REQUESTS OF THE INDIVIDUAL WITH DISABILITIES. PLEASE CONTACT THE TOWN CLERK AT LEAST 48 HOURS PRIOR TO THE MEETING TO MAKE ARRANGEMENTS FOR APPROPRIATE AUXILIARY AIDS. (AUXILIARY AIDS AND SERVICES, 56 FED. REG. 35721, SECTION 36.160(B).

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE PLANNING AND ZONING BOARD WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO INSURE THAT A



TOWN OF LAUDERDALE-BY-THE-SEA


PLANNING & ZONING

AGENDA ITEM REQUEST FORM

TO: PLANNING & ZONING MEMBERS

Development Services

Department Submitting Request


 Dept Head's Signature

Board Meeting Dates	Last date to turn in completed file to P&Z Clerk's Office	Board Meeting Dates	Last date to turn in completed file to P&Z Clerk's Office	Board Meeting Dates	Last date to turn in completed file to P&Z Clerk's Office
<input type="checkbox"/> July 15, 2009	June 5 (5:00 p.m.)	<input type="checkbox"/> Nov 18, 2009	Oct 5 (5:00 p.m.)	<input type="checkbox"/> Mar 17, 2010	Feb 5 (5:00 p.m.)
<input type="checkbox"/> Aug 19, 2009	July 6 (5:00 p.m.)	<input checked="" type="checkbox"/> Dec 16, 2009	Nov 6 (5:00 p.m.)	<input type="checkbox"/> April 21, 2010	Mar 5 (5:00 p.m.)
<input type="checkbox"/> Sept 16, 2009	Aug 3 (5:00 p.m.)	<input type="checkbox"/> Jan 20, 2010	Dec 4 (5:00 p.m.)	<input type="checkbox"/> May 18, 2010	April 2 (5:00 p.m.)
<input type="checkbox"/> Oct 21, 2009	Sept 4 (5:00 p.m.)	<input type="checkbox"/> Feb 17, 2009	Jan 4 (5:00 p.m.)	<input type="checkbox"/> June 16, 2010	May 3 (5:00 p.m.)

* Meeting Canceled

NATURE OF AGENDA ITEM

- ☐ Variance
☐ Site Plan
☒ Other: Proposed Code Amendments


SUBJECT: The Planning and Zoning Board to provide recommendation to the Town Commission to the proposed amendments to Chapter 30 "Unified Land Development Regulations" of the Town's Code of Ordinances.

Provide copies of approved item to:


- ☒ Administration
☒ Development Services
☒ Other (Town Attorney)

Town Engineer / Planner Review Required

☐ Yes ☒ No

Town Manager's Initials: 

INTEROFFICE MEMORANDUM

TO: PLANNING AND ZONING MEMBERS
FROM: JEFF BOWMAN, DEVELOPMENT SERVICES DIRECTOR 
SUBJECT: PROPOSED AMENDMENTS TO THE UNIFIED LAND DEVELOPMENT CODE
DATE: 12/8/2009

On September 10, 2009 the Town Commission approved moving forward with the attached proposed amendments to the Unified Land Development Code.

On October 27, 2009 the Town Commission passed a Resolution providing for the issuance of a Notice of Intent concerning pending amendments to Chapter 30 of the Towns Code of Ordinances.

As per Chapter 30 Section 531 (j) of the Towns Code of Ordinances, a copy of the Notice of Intent was provided to you.

On December 7, 2009 (Continued from November 10, 2009) the Public Hearing and Town Commission approval of processing of proposed regulatory changes passed.

The proposed amendments to the Land Development Code are attached for your review and recommendations. The changes are indicated as such:

- ~~Strike through~~ = Deleted
- Underlined = Added Text

The only text changes to the current code are those that have a strike-through or are underlined. If you have any questions please contact me.

Thank You.

You replied on 11/3/2009 4:58 PM.

To help protect your privacy, links to images, sounds, or other external content in this message have been blocked. Click here to unblock content.

Attachments can contain viruses that may harm your computer. Attachments may not display correctly.

Jeff Bowman



From: James E. White [JWhite@wsh-law.com]

Sent: Tue 11/3/2009 2:28 PM

To: Jeff Bowman

Cc: John Olinzock; Susan L. Trevarthen

Subject: RE Draft Ordinances for Nov. 11 PZ Board Meeting

Attachments:  B1A and B1 Permitted Use List Ordinance.doc(57KB)  Revised Corner Lot.doc(59KB)

Jeff,

Please find attached the following draft Ordinances for your review and comment. These are the items that have been included in the recently issued NOI and the Commission will be taking public comment at the November 10th meeting. Additionally, these items are scheduled to move forward on the Nov. 11th PZ Board agenda.

Please note that pursuant to our earlier conversation, we have removed the proposed amendments to Section 30-211 within the "Corner Lot" Ordinance as those changes were previously addressed in the last Chapter 30 Ordinance amendments.

If you have any questions or concerns please let me know. Susan can simply announce at the November 10th Commission meeting that we will not be making changes to Section 30-211 as originally indicated on the NOI.

Thanks

James E. White, Esq., AICP

Weiss Serota Helfman Pastoriza Cole & Boniske, P.L.
200 East Broward Blvd., Suite 1900
Fort Lauderdale, FL 33301
www.wsh-law.com
Tel: (954) 763-4242
Fax: (954) 764-7770



Think before you print

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NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION
OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA, THAT:

SECTION 1. The foregoing "WHEREAS" clauses are hereby ratified and confirmed as being true, correct and reflective of the legislative intent underlying this Ordinance and are hereby made a specific part of this Ordinance.

SECTION 2. Chapter 30 "UNIFIED LAND DEVELOPMENT REGULATIONS," Article V "Zoning," Division 2 "Districts," Subdivision L "Supplemental Regulations," Section 30-313 "General provisions," is hereby amended as follows:

Sec. 30-313. General provisions.

* * * * *

(29) Swimming pools, decks, patios, hot tubs and spas; setbacks and enclosure required. ~~No swimming pool, hot tub or spa shall be constructed within a front yard setback.~~ Swimming pools, hot tubs and spas shall have the following minimum setback regulations:

- a. All water bearing wall surfaces shall have a minimum five-foot setback from the side and rear property lines.
- b. All water bearing wall surfaces shall have a minimum ten-foot setback from any public right-of-way.
- c. Notwithstanding any other regulation of this Code, fencing to enclose a swimming pool, hot tub or spa is permitted in front setback, but shall not encroach upon the sight distance triangle created in section 30-124(a)(8) of the Code.

All swimming pools shall be enclosed by an open mesh screen enclosure or a fence of wall a minimum of five feet in height of such design and material as will prevent unauthorized access to the pool area. All screen doors and fence gates shall be equipped with a self-locking mechanism.

Swimming pools or spas on lots that directly abut a waterway or other water area shall not require enclosure along such waterway or water area.

Screen enclosures, pool decks, patios, porches and terraces shall be permitted in any the required side yard ~~or rear yard only~~ and shall not be located less than 2 1/2 feet from plot

ORDINANCE 2009-35

67 lines. In addition, the location of screen enclosures, pool decks, patios, porches and
68 terraces will need to be located outside of any utility easement areas unless the property
69 owner obtains consent from the applicable utility(s) to allow any of these structures in the
70 easement area.

71

72 * * * * *

73

74 **SECTION 3. Severability.**

75 If any section, sentence, clause or phrase of this Ordinance is held to be invalid or
76 unconditional by any court of competent jurisdiction, then said holding shall in no way
77 affect the validity of the remaining portions of this Ordinance.

78 **SECTION 4. Effective Date.**

79 This Ordinance shall become effective immediately upon passage on second
80 reading.

81 **SECTION 5. Codification.**

82 This Ordinance shall be codified.

83 **SECTION 6. Adoption.**

84

85 Passed on the first reading, this ____ day of _____, 2009.

86 Passed on the second reading, this ____ day of _____, 2009.

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Mayor Roseann Minnet

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ORDINANCE 2009-35

		First Reading	Second Reading
98			
99	Mayor Minnet		
100	Vice-Mayor McIntee		
101	Commissioner Clotey		
102	Commissioner Silverstone		
103	Commissioner Dodd		
104			
105			
106	Attest:		
107			
108	Town Clerk, June White		
109	(CORPORATE SEAL)		
110	Approved as to form:		
111			
112	Town Attorney, Susan L. Trevarthen		

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27 notice of intent, and by majority vote shall either approve or disapprove the further
28 processing of the proposed land development regulations; and

29 **NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION**
30 **OF THE TOWN OF LAUDERDALE-BY-THE-SEA, FLORIDA:**

31
32 **SECTION 1.** That, pursuant to Section 30-531 of the Code of Ordinances, the
33 Town Commission authorizes the investigation, study, development, drafting and
34 consideration of the proposed amendments to Chapter 30, as described in the Notice of
35 Intent of Pending Land Development Regulations attached hereto as Exhibit "A."

36 **SECTION 2.** That the Town Commission hereby finds that the effective date of
37 the Notice of Intent of Pending Land Development Regulations shall be October 27,
38 2009.

39 **SECTION 3.** That the Town Commission shall hold a public hearing
40 concerning the Notice of Intent of Pending Land Development Regulations on November
41 10, 2009, and approve or disapprove of the further processing of the proposed
42 regulations.

43 **SECTION 4.** That this Resolution shall become effective immediately upon
44 passage and adoption.

45 **PASSED AND ADOPTED** this 27th of October, 2009

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MAYOR ROSEANN MINNET

49 **ATTEST:**

50 
51 **June White, Town Clerk**

52
53

Approved as to form:

54 
55 **Susan Trevarthen, Town Attorney**

Exhibit "A"

Notice of Intent of Pending Land Development Regulations
Effective October 27, 2009

1. Statement of Purpose: In accordance with Section 30-531 of the Code of Ordinances, the Town hereby issues this **Notice of Intent** to notify the public of proposed changes to the land development regulations of Chapter 30 of the Code of Ordinances ("Code"). Upon Town Commission approval of the further processing of the proposed regulations, the amendments will be included in an ordinance and scheduled for hearing and adoption.

2. Description of Proposed Amendments to Chapter 30 of the Code of Ordinances:

- a. Amendment to Section 30-211 of the Code to amend and clarify the building setback requirements in the RS-5 residential zoning district;
- b. Amendment to Section 30-313 of the Code to remove the prohibition against constructing and allowing a swimming pool, hot tub, or spa to be located within the front yard setback.
- c. Amendment to Section 30-261(b)(1) of the Code to amend and expand the list of permitted uses within the B-1-A commercial zoning district by allowing community theaters and cultural centers.
- d. Amendment to Section 30-271(a) of the Code to amend and expand the list of permitted uses within the B-1 commercial zoning district by allowing community theaters and cultural centers.

3. Projected Time Frame for Adoption of Regulations:

- | | |
|--|--------------------------|
| a. Public Hearing and Town Commission Approval of Processing of Proposed Regulatory Changes: | <u>November 10, 2009</u> |
| b. Planning and Zoning Board Hearing on Ordinance: | <u>November 18, 2009</u> |
| c. First Reading of Ordinance By Town Commission: | <u>December 1, 2009</u> |
| d. Second Reading of Ordinance By Town Commission: | <u>January 12, 2010</u> |

4. Application of Pending Regulations:

The proposed regulations shall become effective and applicable to development within the Town following second reading and adoption by ordinance.

TOWN OF LAUDERDALE-BY-THE-SEA

PLANNING AND ZONING REGULAR MEETING MINUTES

Town Commission Meeting Room

Wednesday, December 16, 2009

6:30 P.M.

I. CALL TO ORDER

Chairman Lawrence Wick called the meeting to order at 6:30 P.M. Members present were Chairman Lawrence Wick, Vice Chair Cristie Furth, Alfred Oldaker and Dennis Ritchie. Also present were, Development Services Director Jeff Bowman, Town Attorney James White and Board Secretary Cr... n Tyrrell was present to record the minutes of the meeting

II. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

III. APPROVAL OF MINUTES

Regular Meeting of the Planning and Zoning Board – October 21, 2009

The minutes were approved as presented

IV. NEW BUSINESS

Project:

Applicant:

Location:

Request:

(A) The Planning and Zoning Board to provide recommendations to the Town Commission to the proposed change to the land development regulations of Chapter 30 of the Code of Ordinances ("Code").

- Amendment to Section 30-313 of the Code to remove the prohibition against constructing and allowing a swimming pool, hot tub, or spa to be located within the front yard setback. (Reference Proposed Ordinance 2009-35)
- Amendment to Section 30-261 (b) (1) of the Code to amend and expand the list of permitted uses within the B-1-A commercial zoning district by allowing community theatres and cultural centers. (Reference Proposed Ordinance 2009-10)
- Amendment to Section 30-271(a) of the Code to amend and expand the list of permitted uses within the B-1 commercial zoning district by allowing community theatres and cultural centers. . (Reference Proposed Ordinance 2009-10)

Chairman Wick asked Town Attorney James White to present the first proposed Ordinance 2009-35. Attorney White said that the ordinance for consideration was an ordinance of the Town of Lauderdale-By-the-Sea, Florida amending Chapter 30 "Unified Land Development Regulations," Article V "Zoning," Division 2 "Districts," Subdivision L "Supplemental Regulations," Section 30-313 "General Provisions" of the Code of Ordinances; providing for severability, codification, and an effective date.

Chairman Wick asked Development Services Director Jeff Bowman to present his explanation of the proposed Ordinance 2009-35 to the board.

Mr. Bowman started out with the background and said that on September 10, 2009 the Town Commission approved moving forward with the attached proposed amendments to the Unified Land Development Code. On October 27, 2009 the Town Commission passed a Resolution providing for the issuance of a Notice of Intent concerning pending amending to Chapter 30 of the Town's Code of Ordinances. As per Chapter 30 Section 531 (j) of the Town's Code of Ordinances, a copy of the Notice of Intent was provided to the board. On December 7, 2009, the Public Hearing and Town Commission approval of processing of proposed regulatory changes passed and those regulations are in front of the board. Mr. Bowman said that if you go to 2009-35 line 45 is where the amendments begin. Mr. Bowman explained that the strike throughs were deletions and the underlined text were added text. Mr. Bowman said that the Town has a pool ordinance that is proposed to be changed to allow pools in the front setbacks. So in line 45 "No swimming pool, hot tub or spa shall be constructed within a front yard setback" is stricken. Mr. Bowman noted the various stricken words and added text in the proposed ordinance.

Chairman Wick asked for board comments.

Ms. Furth directed her comment to Mr. Bowman and referred to line 53 and said that if the board is assuming the normal setbacks are 25 feet and every pool is required to have a 5 foot fence as a minimum, how close could the fence be built towards the swale line of the property since there were no delineations in the ordinance for that.

Mr. Bowman said that normal street right of ways were 50 feet, so if you go 25 feet from the center line of the road towards the property, that is normally where the property line would be; and the roadway is only 10 feet on that side – so you would have about a 15 foot swale area. On top of that, you would have another 10 feet abutting the public right of way. So the total setback would be 25 feet from the road or 35 feet from the center line of the road.

Ms. Furth commented that this ordinance also allows for pool enclosures in the front yard.

Mr. Bowman said that pool screened enclosures would be allowed in the front yard if the property owner elected not to put in a fence.

Ms. Furth asked Mr. Bowman if he knew why this was introduced in the first place.

Mr. Bowman said that he thought that this was brought up for discussion during public comments at a Town Commission hearing because there were some homes on corner lots that have a hardship because their front yards were bigger than their side yards and that there are some homes that have a pool in the front yard.

Ms. Furth said that this ordinance did not delineate for corner lots and it pertains to all residential properties. Ms. Furth further stated that if this ordinance was passed, it would allow for any property owner to build a pool or an enclosure in their front yard.

Mr. Bowman said that if the property owner had the space to do it, they could build a pool with an enclosure in the front yard.

Mr. Ritchie said that he was curious why this was enacted and said that he does not want this to be approved.

Mr. Bowman verified that the normal right of way was 50 feet and that the pool/enclosure could be put only on the property and could not encroach the swale area.

Chairman Wick made a clarification and said that front yard setbacks were a minimum of 25 feet and a maximum of 35 feet. So if this ordinance is changed, a property owner could have about a 20 to 30 foot pool in front of the house.

Mr. Bowman said that it would depend on where the house was situated on the lot. Mr. Bowman said that the minimum setback is 10 feet from the public right of way and the pool could not be put in that setback area.

Land Development Regulations," Article V "Zoning," Division 2 "Districts," Section 30-261 "B-1-A District-Business" in order to provide that community theatres and cultural centers are permitted uses in the B-1-A; further amending Section 30-271 "B-1 District-Business" in order to provide that community theatres and cultural centers are permitted uses in the B-1 District; providing for severability; providing for codification; and providing for an effective date.

Chairman Wick asked the board to present their comments to Mr. Bowman.

Mr. Ritchie said that he was curious why the Town was defining what constitutes a business in the Town of Lauderdale-By-The-Sea with this whole ordinance. Mr. Ritchie wanted to know why the ordinance was listed this way to define a business that would be allowable in Town.

Attorney White said that he could answer Mr. Ritchie's comments and gave an explanation of how the various zoning districts were structured. Based on how those zoning districts were structured, you would have a list of permitted uses which would denote and list all various types of businesses that would be allowed to exist and operate in that particular zoning district. This ordinance gives the Town a range of different uses that would be allowed in zoning districts B-1-A and B-1 and they pretty much mirror each other except that B-1 allows for few more uses than B-1-A. The ordinance is not necessarily defining what a business would be, it is merely telling you that these would be the types of businesses that would be allowed. So, as new uses come along and as businesses change characteristics, local governments would need to add to those lists or remove certain uses that become obsolete.

Ms. Furth asked Attorney White if this ordinance was implemented because there was a possible theatre that was coming into Town and there was concern about the request for off-site parking that would be needed for this type of business. Ms. Furth asked what the parking requirements would be for this type of business.

Attorney White said that this ordinance just sets up the use for the Town and said that the parking issue would be a concern. Attorney White said that if a business wanted to turn a particular building into a cultural center or a community theatre or build a new one, they would have to go through the proper planning approval process at which time the parking issue would be reviewed. Either they would have to seek a variance or they would have to have some type of parking agreement in order provide the necessary parking pursuant to the Town's Code. Attorney White said that there might be transportation or some type of traffic impacts that would have to be mitigated and also said that the Town has parking requirements for various uses and asked Mr. Bowman to comment further.

Mr. Bowman said that an office building would have different parking requirements as compared to a restaurant. Mr. Bowman said that for a theatre in some cases a traffic study would have to be done or parking could be leased from other areas. Mr. Bowman said that a good percentage of the Town is legal non-conforming and that there were provisions in the code to have parking agreements.

Ms. Furth commented that the board could then assume that parking would not be a problem if a theatre or cultural center were allowed.

Mr. Bowman said that he was not saying that, he was just stating that an existing business would have different parking requirements than a new type of business that would go into that location and they would have to obtain additional parking from somewhere.

Ms. Furth commented that there was no designation for parking in this ordinance and that would have to be another step that the Town would have to take.

Mr. Bowman said that there were provisions in the code that allows a business to have a lease agreement with individuals that have extra parking or lease space from the Town or from a lot.

Mr. Oldaker recalled that a resident came into one of the meetings to request a variance for a pool in the front yard and the variance was voted down and now this ordinance has been presented.

Mr. Bowman said that several property owners requested a variance because they had an existing pool in the front yard and the variances were granted. Mr. Bowman said that the variance that Mr. Oldaker is referring to was denied.

Mr. Oldaker said that the reason why the property owner needed to put the pool in the front yard was because the front door was on the widest part of the lot and most of these houses were built in a rectangle and were set back so that the back yard does not have enough space for a pool. Mr. Oldaker commented that there were only a handful of lots in Town that could take advantage of this ordinance and a lot of the homes in Town were built too close to the street to have a pool.

Ms. Furth commented again that this ordinance would allow anyone to choose to build a pool in the front yard and it would not just be for special properties.

Mr. Bowman said that the ordinance would include all residential properties in Town.

Chairman Wick asked if there was anyone at the hearing that would like to make a public comment. Since there were no public comments, Chairman Wick asked the board to make a motion and then further discussion of the motion would commence.

Mr. Oldaker made a motion, seconded by Ms. Furth to approve the proposed Ordinance 2009-35 prior to further discussion.

Mr. Furth asked Town Attorney White that if this ordinance was not on the books, someone could come in and request a variance based on their special circumstances.

Attorney White said that Ms. Furth was correct and commented that if this ordinance was not passed, the regulations would apply where you would be prohibited from putting a pool in the front yard. Like in the past, they would have to come before the Board of Adjustment for a variance to be reviewed on an individual basis.

Ms. Furth asked if the person that requested this, went through the variance process the first time around.

Attorney White said that he was aware that there was a recent variance similar to what this ordinance is trying to cure where the variance request was denied. Attorney White said that it was his understanding from staff that throughout the years there were several variances requested similar in scope to allow pools in the front yard. After the last variance request came through, that is when the Commission directed staff and the Town Attorney to draft this ordinance to bring forward to the Planning and Zoning Board.

Chairman Wick commented that he did not think that this ordinance was well drafted and thought that it would create more problems for most people because he thought you would have a spotty looking neighborhood. Chairman Wick said that people that have this type of situation, should take it to the Board of Adjustment for review.

Ms. Furth agreed with Chairman Wick's comments and thought this ordinance could present real problems and would detract from the neighborhood and the line of site.

Since there were no further comments from the board, Chairman Wick asked for a vote to the main motion to send Ordinance 2009-35 to the Town commission with the recommendation of the Planning and Zoning Board.

In a roll call vote, the motion failed 4 – 0. The motion to approve the Ordinance 2009-35 failed.

Chairman Wick asked Town Attorney James White to present the next proposed Ordinance 2009-10. Attorney White said that the next ordinance for consideration was an ordinance of the Town of Lauderdale-By-the-Sea, Florida, Amending Chapter 30 "Unified

Chairman Wick commented that you would find either in the County or in the Town Code that you would have to have a certain amount of parking depending on the type of business use. Also, the code states that if a business comes in to change the existing business use like a cultural center or theatre, they would have to do a traffic study to make sure they would not have a problem. Chairman Wick asked Mr. Bowman if that was correct.

Mr. Bowman commented that if a new use went into an existing building that requires more parking, the Town would require them to come up with the additional parking.

Chairman Wick asked if there was anyone at the hearing that would like to make a public comment regarding Ordinance 2009-10. Since there were no public comments, Chairman Wick asked the board to make a motion and then further discussion of the motion would commence.

Mr. Oldaker made a motion, seconded by Mr. Ritchie to pass this ordinance forward to the Town Commission. Since there was no further discussion from the board, Chairman Wick asked for roll call vote.

In a roll call vote, all voted in favor to send Ordinance 2009-10 to the Town Commission with the board's recommendation to pass the ordinance as presented. The motion carried 4 – 0.

V. OLD BUSINESS

There was no old business to be discussed by the board.

VI. UPDATES/BOARD MEMBER COMMENTS

There were no updates or board member comments.

VI. ADJOURNMENT

There being no further business to discuss, Chairman Wick adjourned the meeting at 7:05 P.M. December 16, 2009.

ATTEST:

Colleen Tyrrell, Board Secretary

Chairman Lawrence Wick

Date Accepted: _____